IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

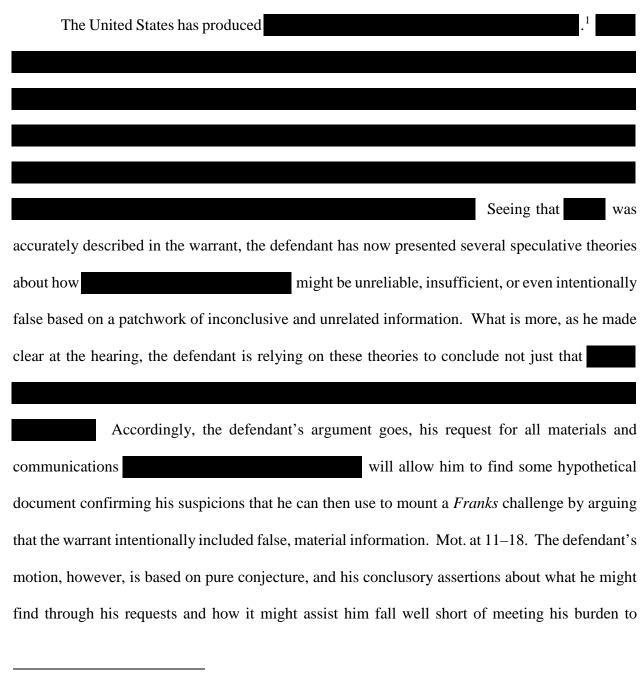
Alexandria Division

UNITED STATES OF AMERICA v. ZACKARY ELLIS SANDERS, Defendant.) Case No. 1:20-CR-143) Honorable T.S. Ellis, III) Filed Under Seal)
	IEF IN OPPOSITION TO DEFENDANT'S <u>IPEL DISCOVERY</u>
On July 31, 2020, the Court held a hearin	g on the defendant's motion to compel discovery.
Dkt. No. 38 ("Mot."). At the conclusion of the	hearing, the Court instructed the parties that they
had ten days to file any supplemental briefing. A	Accordingly, the United States of America, by and
through its attorneys, G. Zachary Terwilliger, U	United States Attorney for the Eastern District of
Virginia, William G. Clayman, Special Assistant	t United States Attorney (LT), and Jay V. Prabhu,
Assistant United States Attorney, hereby files	this supplemental response in opposition to the
defendant's motion to compel discovery.	
The facts underlying the government's i	nvestigation of the defendant are included in the
government's initial response. See Dkt. No. 43	3 at 1–5.
	, the United States obtained and executed
a warrant to search the defendant's home. Durir	ng the search, the defendant admitted to accessing

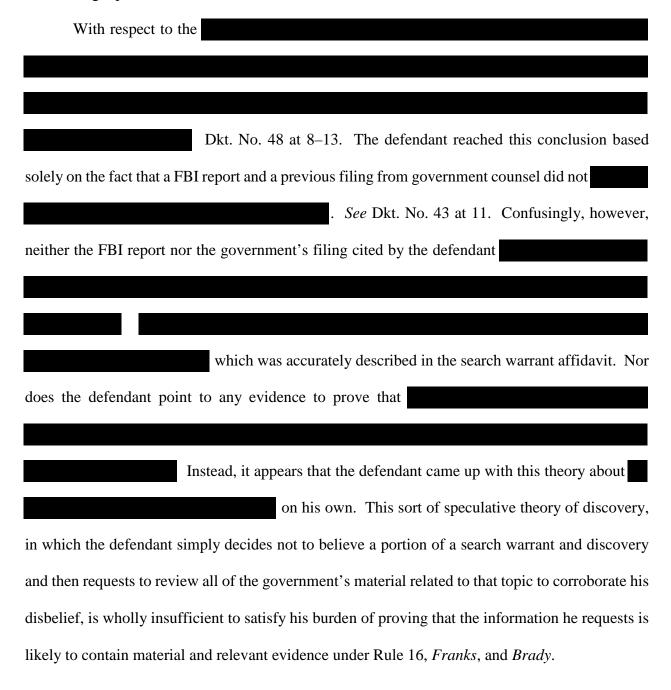
Further, based on evidence seized pursuant to the

child pornography on Tor.

warrant, law enforcement discovered that he had also been chatting online with minors and ordering them to record and send him images and videos of themselves engaging in sexually explicit and demeaning conduct. These recordings include, for example, videos of the minors slapping their genitals and calling themselves the defendant's slaves. *See* Dkt. No. 4 at ¶¶ 15–22.

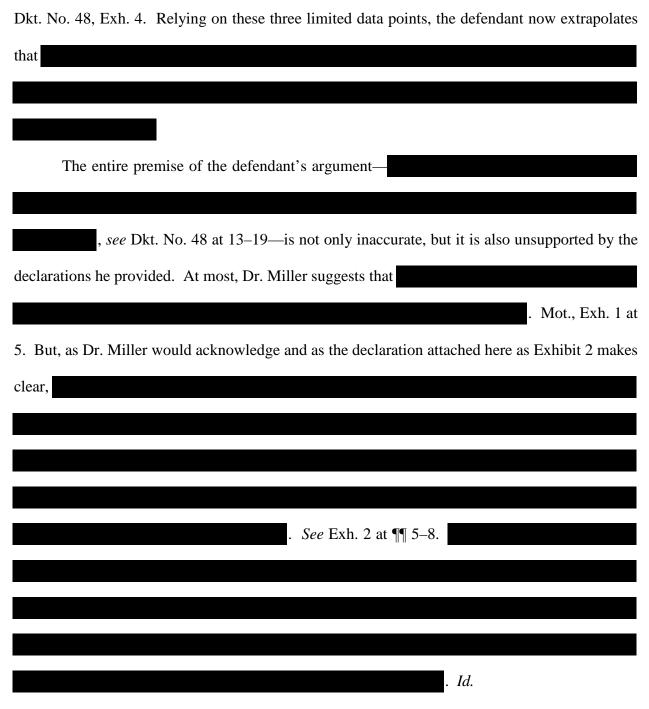


establish the materiality of the requested information under Rule 16, *Franks*, *Brady*, and any other relevant legal precedent.² His motion should therefore be denied.



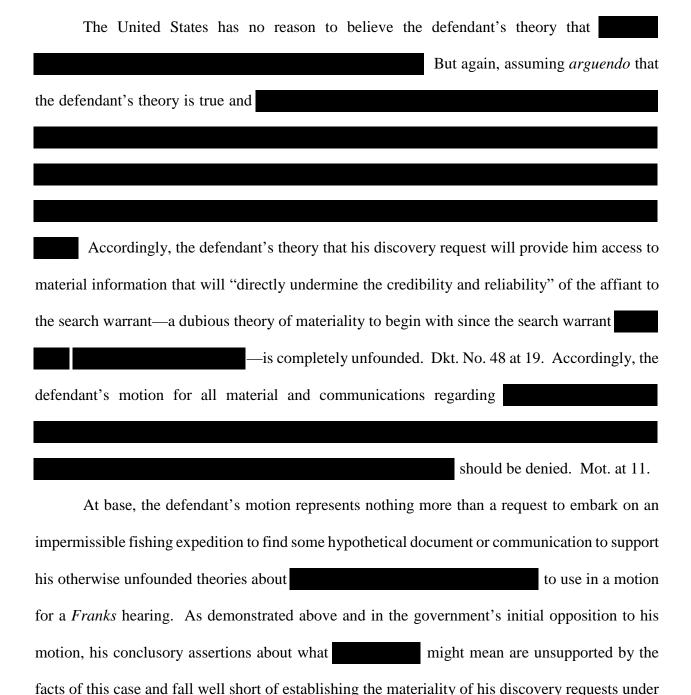
² The relevant legal standards are outlined in the government's initial response in opposition. *See* Dkt. No. 43 at 5–9, 18–20.

Further, as the government noted at the hearing on the defendant's motion, arguments
related to whether provided a sufficient basis for the magistrate judge to have issued
the warrant or how much weight it should have been given are arguments that go to probable cause
and that can be resolved based on the facts set forth in the four corners of the warrant. And even
assuming arguendo that is somehow incomplete or false—which, to be clear, the
government has no reason to believe to be the case—
Accordingly, his motion for all material and communications related to
should be denied.
With respect to the
. In support of this theory, the defendant
points to three things: (1) materials and testimony from other law enforcement agents in years-old
cases stemming from an entirely different investigation in which
; (2) a declaration
prepared by Dr. Matthew Miller opining that
and (3) a declaration prepared by Matthew Ryder,
. See Mot., Exh. 1; see also



Neither the defendant nor the declarations he has provided make any attempt to grapple with this information, which has been publicly available for years. Instead, all he has done is speculate as to one way in which might be false, ignore all evidence to the contrary, and conclude based on that speculation that the government must be withholding some document

or communication that confirms his belief. But Rule 16, *Franks*, and *Brady* require that he provide far more than his own speculative theories about what might exist and how it might be material to support his motion, particularly since the facts of the case and publicly available information contradict his own theory of materiality.



Rule 16, *Franks*, *Brady*, or any other relevant legal precedent. Accordingly, the government respectfully requests that the Court deny the defendant's motion to compel discovery.

Respectfully submitted,

G. Zachary Terwilliger United States Attorney

Date: August 10, 2020 By:

/s/___

William G. Clayman

Special Assistant United States Attorney (LT)

Jay V. Prabhu

Assistant United States Attorney United States Attorney's Office

2100 Jamieson Avenue Alexandria, Virginia 22314

Phone: 703-299-3700 Fax: 703-299-3981

Email: William.G.Clayman@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2020, I filed the foregoing with the Clerk of Court and emailed an un-redacted copy of same to all counsel of record.

By: /s/_____

William G. Clayman Special Assistant United States Attorney (LT) United States Attorney's Office Eastern District of Virginia 2100 Jamieson Avenue Alexandria, Virginia 22314 (703) 299-3700

Email: william.g.clayman@usdoj.gov